

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS

No. 6:21-cv-00214

**Danny Dee Heldenbrand,**  
*Petitioner,*

v.

**Director, TDCJ-CID,**  
*Respondent.*

**ORDER**


Petitioner Danny Heldenbrand, proceeding pro se, filed this petition for the writ of habeas corpus under 28 U.S.C. § 2254 complaining of the legality of his conviction. Doc. 1. The case was referred to United States Magistrate Judge John D. Love. Doc. 2.

Petitioner challenged his conviction for indecency with a child by sexual contact, for which he received a sentence of 16 years in prison. Doc. 22 at 1. In his federal habeas petition, he asserted that he received ineffective assistance of counsel, that there was no evidence or insufficient evidence to support his conviction, and that he is actually innocent. *Id.* at 2. The magistrate judge ordered the respondent to answer the petition (Doc. 3) and received copies of the state court records. Docs. 11, 12. Petitioner filed a response. Doc. 15.

After review of the pleadings and the state court records, the magistrate judge issued a report recommending that the petition for habeas corpus relief be denied. Doc. 22. Copies of the report were sent to petitioner on November 16, 2023, and January 9, 2024, but no objections have been received. The Fifth Circuit has explained that where a letter is properly placed in the United States mail, a presumption exists that the letter reached its destination in the usual time and was actually received by the person to whom it was addressed. *Faciane v. Sun Life Assurance Co. of Canada*, 931 F.3d 412, 420-21 & n.9 (5th Cir. 2019).

When there have been no timely objections to a magistrate judge's report and recommendation, the court reviews it only for clear error. *See Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996). Having reviewed the magistrate judge's report, and being satisfied that it contains no clear error, the court accepts its findings and recommendation. The above-styled petition for habeas corpus relief is dismissed with prejudice. A certificate of appealability is denied sua sponte.

*So ordered by the court on May 13, 2024.*

  
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J. CAMPBELL BARKER  
United States District Judge